



Utah Instream Flows

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May 21, 2007

Utah Water Slogans

- Slow the Flow
- The Solution to Pollution is not Dilution

State Policy

- All waters in this state, whether above or under the ground are hereby declared to be the property of the public, subject to all existing rights to the use thereof. (UCA 73-1-1)
- Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state. (UCA 73-1-3)
- The use of water for beneficial purposes, as provided in this title, is hereby declared to be a public use. (UCA 73-1-5)

Stream Environment Protection

- (i) If the state engineer, because of information in the state engineer's possession ... has reason to believe that an application to appropriate water ... will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, it is the state engineer's duty to withhold approval or rejection of the application until the state engineer has investigated the matter.
 - (ii) If an application does not meet the requirements of this section, it shall be rejected.
- (UCA 73-3-8)**

Channel Protection

- A state agency, county, city, corporation, or person may not relocate any natural stream channel or alter the beds and banks of any natural stream without first obtaining the written approval of the state engineer.
(UCA 73-3-29)

Instream Flow Appropriation

- Change Existing Perfected Right
- 1 Year Temporary or Permanent Change
- Filed by Wildlife or Parks (state agencies)
- Fish, Recreation, Preserve/Enhance Stream
- No Impairment
- No Eminent Domain (**UCA 73-3-3**)

Legislative History

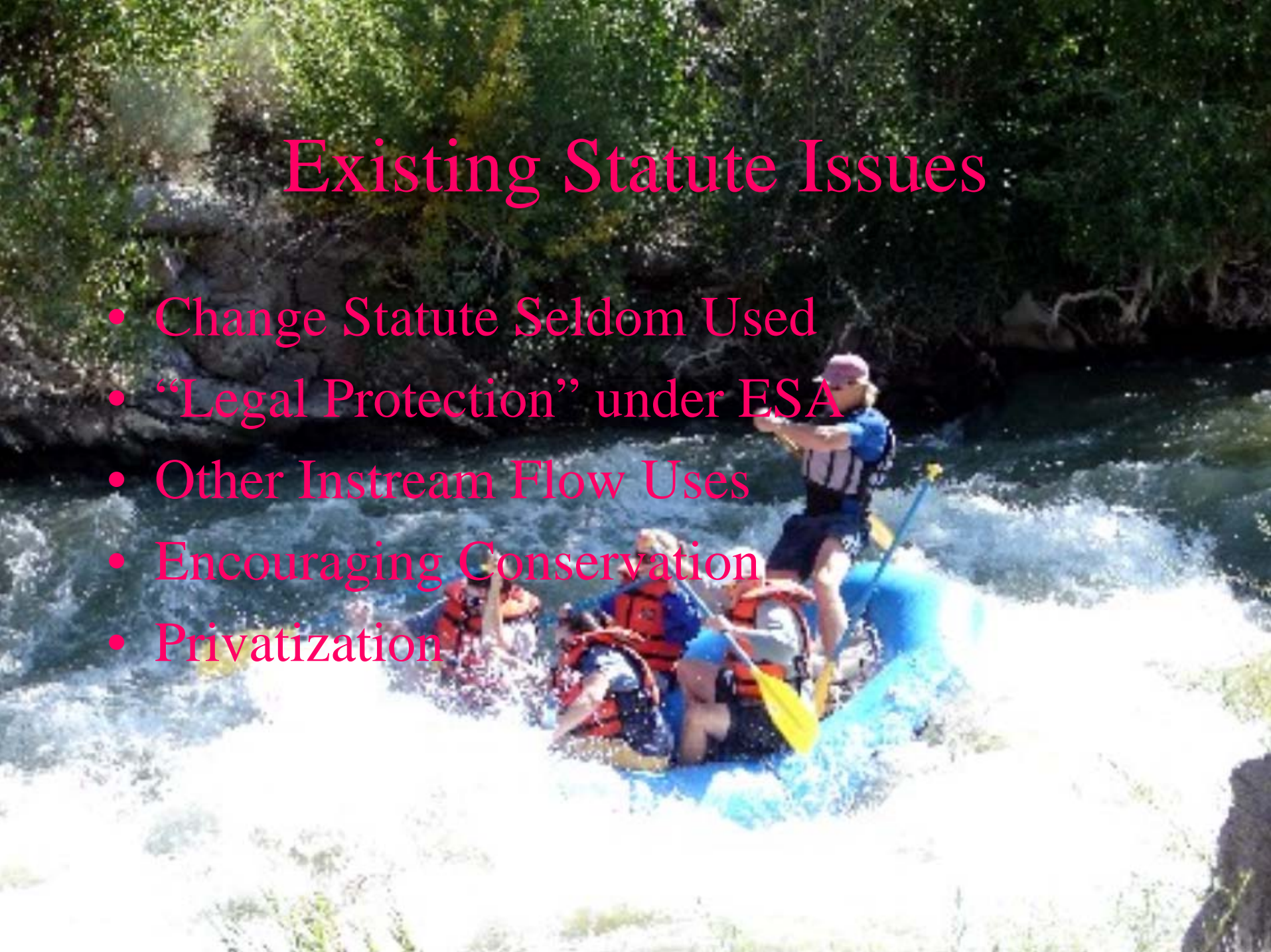
- 1977 Protection through denial (natural stream environment)
- 1986 Ability to change to Instream flow
- 1992 Stream Channel Protection

Other Instream Flow Tools

- Agreement
- Policy
- Flow Thru Uses
- Recognition of Federal Reserved Right

Existing Statute Issues

- Change Statute Seldom Used
- “Legal Protection” under ESA
- Other Instream Flow Uses
- Encouraging Conservation
- Privatization



Issues With Private Ownership

- What Water Can be Changed?
- Private Fishing/Public Stream?
- Public or Private Purpose?
- Who Can do It?
- Is it a Nonuse Escape?
- Door to Endangered Species?



POTW Issues

- Permanent Grant Unacceptable
- Treatment Expense
- How Much Water is Enough
- Protected Reach
- Eminent Domain
- Competition Against Other Uses

Questions?

